REMARKS

I. Introduction

In response to the Office Action dated January 10, 2008, which was made final, and in conjunction with the Request for Continued Examination (RCE) submitted herewith, claims 1, 6, 10, 15, 19 and 24 have been amended. Claims 1-2, 4-8, 10-11, 13-17, 19-20 and 22-26 remain in the application. Re-examination and re-consideration of the application, as amended, is requested.

II. Specification and Claim Objections

In section (4), the Office Action objects to the specification as failing to provide proper antecedent basis for the subject matter in claims 6, 16 and 24. In section (10), the Office Action objects to claims 6, 15 and 24 because they recite "in each frequency band" and instead should recite "in a frequency band.

Applicants' attorney has amended claims 6, 15 and 24 as set forth above to overcome these objections.

III. Prior Art Rejections

In sections (4)-(5), the Office Action rejected claims 1, 8, 10, 17, 19, 20 and 26 under 35 U.S.C. § 103(a) as being unpatentable over McDowell, U.S. Patent No. 6,931,370 (McDowell) in view of Friedman, U.S. Patent No. 5,337,041 (Friedman), in further view of Frlan, U.S. Patent No. 6,047,178 (Frlan). In section (7), the Office Action rejected claims 2, 11 and 20 under 35 U.S.C. §103(a) as being unpatentable over McDowell, in view of Friedman, in further view of Frlan, and in further view of Fiocca, U.S. Patent No. 5,625,743 (Fiocca). In section (8), the Office Action rejected claims 4, 5, 13, 14, 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over McDowell, in view of Friedman, in further view of Frlan, and in view of Pierret et al., U.S. Patent No. 3,843,942 (Pierret). In section (9), the Office Action rejected claims 7, 16 and 25 under 35 U.S.C. §103(a) as being unpatentable over McDowell, in view of Friedman, in further view of Frlan, and in further view of Smith, U.S. Publication No. 2002/0173864 (Smith).

Applicants' attorney respectfully traverses these rejections.

The pertinent combination of references, namely McDowell, Friedman and Frlan, does not teach or suggest the combination of elements recited in Applicants' independent claims. Specifically, the combination of McDowell, Friedman and Frlan does not teach or suggest audio level control for compressed audio in a data stream, comprising: (a) extracting sub-band data from the data stream;

(b) dequantizing and denormalizing the extracted sub-band data; (c) measuring an audio level for the dequantized and denormalized sub-band data without reconstructing the audio signal using channel characteristics; (d) comparing the measured audio level against one or more thresholds; and (e) triggering an alarm when one of the thresholds is exceeded, wherein the thresholds are set to generate the alarm based on loss of the audio signal in the data stream, or when an average level of the audio signal in the data stream is too high or too low.

For example, McDowell merely describes a system for providing interactive audio in a multi-channel audio environment. However, the portions of McDowell cited by the Office Action describe how the system measures the audio level to determine whether a sub-band is inaudible, in which case it is removed from the mixing process.

Moreover, the Office Action admits that McDowell fails to disclose triggering an alarm when a threshold is exceeded, and the Office Action admits that McDowell fails to disclose that thresholds are set to generate an alarm based on loss of the audio signal or when an average level of the audio signal is too high or low.

Nonetheless, the Office Action asserts that Freidman discloses triggering an alarm when a threshold is exceeded, and the Office Action asserts that Frlan discloses that thresholds are set to generate an alarm based on loss of the audio signal or when an average level of the audio signal is too high or low.

However, Friedman merely discloses a personal safety guard system for a stray person or pet, where a guardian transmits a signal from a hand-held unit carried by the guardian that is received by a portable alarm unit worn by the person or pet under the guardian's supervision, and the alarm unit operates to alert the wearer and others nearby that the guardian is looking for them. The portions of Friedman cited by the Office Action describe how the portable alarm unit receives the signal that then triggers the portable alarm unit.

Moreover, Frlan merely discloses a method of providing direct communication between a pair of mobile phones over a single voice channel, as well as a novel mobile phone equipped with the capability to function in a so-called base-station-emulation (BSE) mode. The portions of Frlan cited by the Office Action describe how the mobile phones communicate with each other using a supervisory audio tone (SAT), wherein loss of the SAT indicates that one of the phones has hung up and the call should be terminated.

Consequently, even when combined, the references do not teach or suggest measuring an audio level of an audio signal in a data stream, and triggering an alarm when a threshold for the

audio level of the audio signal in the data stream is exceeded, wherein thresholds are set to generate the alarm based on loss of the audio signal in the data stream or when an average level of the audio signal in the data stream is too high or too low.

Indeed, the combination of McDowell, Friedman and Frlan could not be used for the same purpose as Applicants' invention, namely the automatic measurement of audio presence and level of a compressed audio data stream by direct processing of the data stream. Moreover, a person having ordinary skill in the art would not think to combine McDowell, Friedman and Frlan in the manner suggested by the Office Action, because McDowell refers to a system for providing interactive audio in a multi-channel audio environment, Friedman refers to a personal safety guard system and Frlan refers to a method of providing direct communication between a pair of mobile stations in a cellular phone system. These systems are sufficiently different from each other that only hindsight by the Office Action could suggest their combination.

Thus, Applicants' attorney submits that independent claims 1, 10 and 19 are allowable over the references. Further, dependent claims 2, 4-8, 11, 13-17, 20 and 22-26 are submitted to be allowable over the references in the same manner, because they are dependent on independent claims 1, 10 and 19, respectively, and thus contain all the limitations of the independent claims. In addition, dependent claims 2, 4-8, 11, 13-17, 20 and 22-26 recite additional novel elements not shown by the references.

IV. Conclusion

In view of the above, it is submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

GATES & COOPER LLP
Attorneys for Applicant

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By: _____
Name: George H. Gates
Reg. No.: 33,500

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